

STATEMENT OF

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ON

CURBSIDE OPERATORS' BUS SAFETY AND
ADA REGULATORY COMPLIANCE

BEFORE THE HIGHWAYS, TRANSIT AND PIPELINES
SUBCOMMITTEE
OF THE
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

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Mr. Chairman and members of the Committee:

My name is Bruce Hamilton and I am the President/Business Agent of the Amalgamated Transit Union (ATU) National Local 1700, representing approximately 4,000 employees of Greyhound Lines, Inc. The members of ATU National Local 1700 operate and maintain Greyhound vehicles and terminals throughout the United States. It is my pleasure to appear here today on behalf of these members, as well as all ATU members operating fixed-route intercity bus service in the U.S., including my Brothers and Sisters in ATU Local 1512, which represents employees of Peter Pan Bus Lines, and other ATU locals representing employees of Bonanza Lines and Martz Trailways.

I was elected to the Executive Board of Local 1700 in 1999 and elected President of the local in January 2005. Prior to that, I was an ATU member and bus operator for Greyhound for almost thirty years. I know first hand the level of skill and training that is required of a bus driver, as well as the importance of maintaining a vehicle fleet that meets or exceeds federal safety standards. Safety has always been a top priority for the ATU and we are extremely grateful for this Committee's decision to hold this hearing today and for inviting the ATU to participate on this panel.

The ATU is proud of the safe, efficient, friendly and affordable intercity bus service that our members provide across this country. Our commitment to ensuring the continuation of this

high level of service is evident in our longstanding working relationship with others in the industry.

On the federal level, we maintain an unmatched labor-management partnership with our industry groups and our employers, Greyhound in particular. As many of you on this Committee know, ATU and Greyhound have worked together over the years on a number of legislative and regulatory issues, including drug and alcohol testing, hours of service regulations, cross-border bus issues, intercity bus security, accessibility standards, axle weight provisions, intermodal transportation facilities, pension funding laws, and now, illegal curbside bus operations.

This partnership extends to the implementation of these laws and federal standards in the workplace as well. While, admittedly, the ATU and Greyhound have, at times, had rocky relations, we have managed to work together to ensure that the services we provide meet and exceed federal standards. For example, the ATU and Greyhound have worked together to develop an extensive national route structure designed to comply with the federal hours of service regulations for buses, while at the same time maximize service and minimize the number of overnight stays for drivers.

We've also worked closely with Greyhound to develop driver and maintenance training programs that far exceed federally-mandated standards.

The Greyhound driver training program is widely recognized as the best in the industry. Before operating a Greyhound vehicle loaded with passengers, every Greyhound driver must complete a four week training course that includes hands-on driving experience and covers Department of Transportation (DOT) requirements, including drug and alcohol testing, medical examinations, commercial driver's license (CDL) requirements, hours of service regulations, and vehicle standards, as well as additional safe driving skills, security and emergency evacuation practices, and health and safety precautions. Drivers must also attend frequent refresher courses on a variety of safety and compliance issues, including driving in adverse weather conditions and other unusual or difficult traffic conditions, proper logging procedures, compliance with the transportation provisions of the Americans with Disabilities Act (ADA), and emergency procedures.

Like the drivers, Greyhound mechanics receive extensive training on federal requirements, including vehicle safety standards, workplace health and safety requirements, and other DOT regulations. In addition, mechanics attend frequent refresher classes on the latest technological advances, and on maintaining the various bus components.

And, even at the bargaining table, where our relations are at their most strenuous, the ATU has demonstrated its commitment to working with the company to ensure that Greyhound is able to continue profitable operation - even where that means accepting wage freezes or cuts

in pay and benefits, including freezing participation in the ATU-Greyhound defined benefit pension plan.

As these initiatives demonstrate, the ATU is dedicated to ensuring that the companies whose employees we represent are able to continue providing a valuable service to the traveling public. Unfortunately, however, the continuation of this service has been threatened recently by the emergence of numerous fringe bus operations, referred to as “curbside operators,” that are operating in violation of crucial safety, security, environmental and civil rights laws and regulations. Repeated and flagrant violations of these rules - many of which my members can attest to - allow these companies to undercut established carriers such as Greyhound and Peter Pan that follow federal rules and support good jobs for their employees.

These illegal curbside operations are being run primarily, but not exclusively, out of the Chinatown neighborhoods of major cities on the east coast, including New York City, Boston, Philadelphia and Washington, D.C. Unlike Greyhound, Peter Pan and other large intercity bus operations in these areas, these “curbside operators” do not operate out of the cities’ main bus terminals, instead they pick up and drop off passengers at unmarked curbside locations throughout these cities - often in violation of local traffic and right-of-way laws.

Reports from passengers, ATU members, other legitimate bus providers, and state, local and federal officials paint a picture of operators that too often fail to comply with federal rules

governing hours of service, drug and alcohol testing, medical examinations, CDLs, proper registration, licensing, insurance and maintenance practices. In addition, there are numerous reports and complaints that these carriers fail to safely dispose of waste products and are not in compliance with the accessibility standards set by the ADA.

Several serious accidents reported in the media last year offer stark examples of what happens when safety standards continue to be ignored.

In March of last year, a Travel Pack bus operating from New York to Boston caught fire on the Massachusetts Turnpike. While, fortunately, no passengers were injured, the driver, who was convicted of negligent operations in connection with the fire, continued driving on a flat tire even after smoke became noticeable in the bus – pulling over only seconds before the entire bus caught on fire. The previous year, the driver was charged with five moving violations and had his commercial driver's license suspended for 60 days. The company had its safety rating downgraded in 2004 and was forced to pay \$9,000 in fines, but continues to operate.

In another incident, less than two months later, a pedestrian in New York's Chinatown was struck and killed by a bus owned by New Century Travel Inc., a Philadelphia-based company that operates between Chinese communities in Philadelphia, New York and Washington. The driver was charged with failure to yield to a pedestrian.

And in August last year, a Fung Wah bus, operating this time from Boston to New York, erupted in 50 foot flames just moments after the driver and 45 passengers fled the vehicle. Federal records show that in 2004, the Federal Motor Carrier Safety Administration (FMCSA) cited the bus company for failing to do random drug and alcohol tests of its employees as well as for allowing a driver to work more than 70 hours in eight days. The citation resulted in fines totaling more than \$17,000.

Other media reports have documented additional questionable incidents involving these curbside operations, including a driver plowing through an E-ZPass lane without an E-ZPass, a driver driving up a muddy embankment in order to avoid traffic congestion, a door falling off the bus while the bus was in motion, a door not opening and having to be pried off, and numerous incidents of disabled passengers being refused service in violation of the ADA.

And very recently, in January of this year, a surprise inspection by the New York Police Department of two bus operations in New York's Chinatown - Apex Bus and New Century Travel - led to the seizure of four buses due to a variety of licensing and safety violations. As one officer at the scene pointed out, several of the buses were leaking large quantities of anti-freeze and brake fluid onto the street. Even more alarming, is that the driver of one of the buses fled the scene when police arrived - raising countless concerns about the legitimacy of the operations and the driver.

While much of the activity of curbside operators is difficult to track - due to constant changes in ownership and company names, their use of unmarked vehicles, and the often randomness of their pick-up and drop-off locations - ATU members working for Greyhound and Peter Pan in the Northeast corridor have been able to offer anecdotal evidence of their unsafe driving and other practices - either through what they've witnessed on the road, or in the case of Boston, inside the bus terminal.

The most common complaints that we've heard from ATU members concern the erratic and dangerous driving behavior of some of these operators. Drivers have reported being cutoff by these carriers, excessive speeding, constant lane changes, and driving for long periods in the left lane.

It is also not uncommon for a Greyhound or Peter Pan driver to see these vehicles broken down on the side of the road. In these instances, Good Samaritan ATU members have stopped to pick up the stranded passengers and delivered them to their destination without requesting payment.

Members have also reported seeing vehicles owned by these companies doing routine maintenance such as oil changes and other engine work in empty parking lots or on the side of the road - evidencing a failure to have adequate maintenance and inspection facilities, as required under the federal regulations.

Due in part to repeated complaints by the ATU, Peter Pan and Greyhound, local authorities in Boston began issuing citations to curbside operators in 2003, forcing them to operate out of the bus terminal in South Street Station. As a result, ATU members working for both Peter Pan and Greyhound currently work out of the same terminal as the drivers for these carriers. ATU members who have attempted to interact with these other drivers have reported that many of them do not speak English. Since the ability to read and speak English is required of any commercial motor vehicle driver, these experiences call into question the qualifications of these drivers and the validity of their CDLs.

It is crucial that CMV drivers be able to read road signs and digital highway signs, as well as speak and understand English in order to communicate with passengers in an emergency. It is believed that a Travel Pack driver's inability to speak English led to a bus accident in 1998 in New Brunswick, Canada, that killed 4 students when the driver flipped a bus after failing to heed signs warning of a sharp turn at the end of a highway exit ramp. And just last year, a driver who could not read or understand low clearance warning signs, got his bus stuck under a low 9'6" clearance bridge in New York City.

Our members also regularly hear complaints from passengers who have traveled with curbside carriers, only to return to the safety of a more established carrier. Passengers complaints include unsafe driving, inability to communicate with the driver, being dropped off at the wrong location, unsanitary or inoperable restroom facilities, and any number of

other complaints. Similarly, passengers with disabilities have reported being turned away by curbside operators, and often, told to go to Greyhound for accessible service.

These reports and incidents should not come as a surprise to federal officials. Recent Federal Motor Carrier Safety Administration (FMCSA) compliance reviews indicate that low cost operators score dramatically below the national average in terms of safety. While there are recognizable problems with the FMCSA data and its safety ratings, it is nonetheless clear that systematic safety violations are occurring. For example, Fung Wah was assessed a driver safety rating of 73%, compared with a national average of 24%, and a safety management rating of 71% versus a 29% national average. Under the FMCSA rating system, the higher the rating value, the worse the safety status of the company, meaning that 73% of drivers across the country offer a safer trip to passengers than Fung Wah. Kristine Travel & Tours, the once - parent company of Travel Pack, fared even worse under the FMCSA analysis, with stunningly high driver and safety management ratings of 97% respectively, making it one of the least safe bus operations in the country.

We have seen the tragedy that can result from allowing companies with such high ratings to continue transporting the public. Most recently, on September 23 of last year, 23 senior citizens who were being evacuated from the path of Hurricane Rita, died in a horrific bus fire outside of Dallas, Texas. The company, Global Limo Inc., while not technically a curbside operator, was operating despite having a similar driver safety rating of 97%. After the fire,

federal inspectors found 168 violations of federal safety regulations and it was revealed that the driver of the vehicle was an unlicensed illegal immigrant - who had been stopped for driving violations three times in the seven months before the accident.

There is no excuse for continuing to allow these unsafe companies on the road. We must be more aggressive with the enforcement of safety regulations - and the penalties must be significant enough to deter violations.

Even when fines are issued as a result of a safety violation, the amounts are seen as simply a cost of doing business and are insufficient to deter unsafe operations. Furthermore, follow-up oversight and a consistent inspection regime are often lacking. Carriers may simply fix the problem identified, but then commit violations in other areas or when regulators are not paying attention. Some of these curbside providers simply “go out of business,” but then quickly re-appear under another name. Occasional and lax enforcement of our nation’s safety and operational rules is simply not working and regulators must begin a serious effort to ensure that all intercity bus providers are offering safe transportation in compliance with federal, state and local rules.

In particular, the FMCSA must immediately audit curbside operators to ensure compliance with hours of service rules, drug and alcohol testing requirements, maintenance rules, other safety critical procedures and compliance with ADA requirements. The Department of

Justice (DOJ) must act on complaints that curbside operators are not making their service accessible to passengers with disabilities. The Environmental Protection Agency (EPA) needs to examine whether providers are disposing of waste products pursuant to agency rules and procedures designed to avoid contamination and environmental damage.

At the local level, cities should follow the lead of Boston and require all fixed-route intercity bus providers to operate out of a central bus terminal where oversight and accountability can be assured. In addition, local transportation and public safety officials must ensure that bus operators are not continually violating parking and traffic laws - as is too often the case today.

Federal and state rules governing intercity bus providers exist to ensure that the entire industry operates safely and in the public interest. By allowing a fringe element of the industry to evade basic requirements, legitimate providers are placed in an impossible competitive position. More importantly, the safety and well-being of passengers and other highway users is needlessly jeopardized. There is simply no reason for this double standard to exist. Federal, state and local officials must institute measures that will protect the traveling public from this growing safety threat on our nation's highways.

Again, I thank you for the opportunity to appear here today on behalf of my fellow ATU Brothers and Sisters. I look forward to working with the Committee and to continuing the

ATU's partnership with many of the other panelists here today, as well as with other representatives of transportation labor, including the Transportation Trades Department of the AFL-CIO (TTD), to address this issue. I am happy to take any questions at this time.